

Message Text

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ACTION ARA-10

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FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 6360

INFO THE WHITE HOUSE WASHDC

C O N F I D E N T I A L PANAMA 2161

LIMDIS

THE WHITE HOUSE FOR OFFICE OF MANAGEMENT AND BUDGET

E.O. 11652: GDS

TAGS: PEPR, AMGT, PN

SUBJECT: IMPLEMENTING LEGISLATION: AUTHORITY OF THE AMBASSADOR

REF: STATE 82058

1. IT WAS DISAPPOINTING TO LEARN OF THE EXCEPTION TO THE AMBASSADOR'S AUTHORITY THAT HAS BEEN AGREED TO BY STATE AND DOD. I HAVE GREAT DIFFICULTY UNDERSTANDING WHY THIS WAS CONSIDERED NECESSARY. IT HAS AN UNFORTUNATE POTENTIAL AS A PRECEDENT FOR CHIPPING AWAY AT THE AUTHORITY OF THE AMBASSADOR WORLDWIDE AS SET FORTH IN THE PRESIDENT'S LETTER OF OCT. 25. I WOULD THINK THAT THIS WOULD BE A SOURCE OF DEEP CONCERN THROUGHOUT THE DEPARTMENT AND THE USG FOREIGN POLICY ESTABLISHMENT GENERALLY. WE WILL REGRET IT IN SIX MONTHS -- OR LESS -- IF THE TREATIES ARE RATIFIED.

2. APART FROM THESE BROAD CONCERNS, HOWEVER, THIS EXCEPTION, IF IT BECOMES LAW, WILL ALMOST SURELY EXACERBATE THE PROBLEMS OF TREATY IMPLEMENTATION. IT WOULD BE HARD-PRESSED TO THINK OF A COUNTRY WHERE SUCH AN EXCEPTION
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WOULD BE MORE UNFORTUNATE. ONE OF THE DOMINANT THEMES OF THE HISTORY OF U.S.-PANAMANIAN RELATIONS HAS, SINCE 1903, BEEN PANAMA'S MISTRUST OF THE AUTHORITIES RUNNING THE CANAL AND ITS DETERMINATION TO DEAL WITH IMPORTANT DIFFERENCES ON A GOVERNMENT-TO-GOVERNMENT BASIS, I.E., DIPLOMATICALLY, NOT DIRECTLY WITH CANAL AUTHORITIES. I AM SURE THAT THE ORGANIZATIONAL ARRANGEMENTS ES-

TABLISHED IN THE TREATY WILL BE EFFECTIVE IN RESOLVING MOST PROBLEMS AT THE "WORKING LEVEL". BUT I AM EQUALLY SURE THEY WILL NOT IN A GOOD MANY CASES -- THAT PANAMA WILL FIND IT "APPROPRIATE" TO RAISE MATTERS TO "DIPLOMATIC CHANNELS", TO USE THE LANGUAGE OF ART. XIV OF THE TREATY. I HAVE LITTLE DOUBT THAT THEY WILL SEEK TO DO THAT LOCALLY (WHERE THE TECHNICAL EXPERTISE AND FIRST-HAND KNOWLEDGE EXIST, IN THE CASE OF BOTH GOVERNMENTS). AND AS IT OCCURS TO THEM THAT THE CANAL COMMISSION IS "REPORTING DIRECTLY TO WASHINGTON", RATHER THAN THROUGH THE AMBASSADOR ACCREDITED BY OUR PRESIDENT TO THEIRS, THE SUSPICION WILL NOT BE SLOW TO ARISE THAT -- DESPITE ALL THE FINE LANGUAGE IN THE TREATY -- THE "SON-OF-PANCANAL" IS TRYING TO PLAY THE GAME THE WAY HIS FATHER DID. THAT IS, IT IS PREPARED TO DEAL WITH PANAMA ONLY AS SOVEREIGN-TO-SOVEREIGN.

3. I THINK I UNDERSTAND THE REASON FOR DOD'S CONCERN. HISTORICALLY, THE RELATIONSHIP BETWEEN PANCANAL AND THE EMBASSY HAS NOT ALWAYS BEEN GOOD; THERE ARE FEARS THAT THE AMBASSADOR WOULD "MEDDLE" IN THE COMMISSION'S AFFAIRS. I SEE NO BASIS FOR SUCH FEARS. THE U.S. GOVERNMENT HAS MANY OPERATIONAL AGENCIES OVERSEAS (MANY MORE SENSITIVE THAN THE CANAL OPERATION), AND TO MY KNOWLEDGE THEIR ACTIVITIES HAVE NOT BEEN HAMPERED BY THEIR SUBORDINATION. TO THE CONTRARY, THEY HAVE CONFIDENTIAL

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FOUND THE AMBASSADOR'S CLOUT WITH THE LOCAL GOVERNMENT TO BE AN ASSET. I BELIEVE THAT THE SAME WOULD BE TRUE IN PANAMA IF THE PRESENT LAW WERE ALLOWED TO CONTINUE IN EFFECT.

4. I DON'T WANT TO BELABOR THE POINT. I THINK THE DRAFT LEGISLATION AS TRANSMITTED IN REFTEL IS A BIG MISTAKE, AND I DO NOT BELIEVE THAT IT IS TOO LATE TO RECTIFY IT. BUT EVEN IF AN EXCEPTION IS TO BE MADE, THE LANGUAGE IN REFTEL STRIKES ME AS TOO BROAD. AT THE VERY LEAST, THE FOREIGN RELATIONS FUNCTIONS OF THE AMBASSADOR SHOULD NOT BE IMPAIRED AS THEY APPLY TO THE CANAL OPERATION. I WOULD SUGGEST ADDING IN PARA (2) OF THE PROPOSED SECTION 102, FOLLOWING THE WORDS, "AMBASSADOR TO THE REPUBLIC OF PANAMA" SOMETHING ALONG THE FOLLOWING LINES:
"...PROVIDED HOWEVER, THAT THE AUTHORITY AND RESPONSIBILITY OF THE AMBASSADOR FOR THE CONDUCT OF RELATIONS BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND PANAMA SHALL NOT BE IMPAIRED BY THE APPLICATION OF THIS SECTION." THEN STRIKE THE WORD "BUT" AND MAKE THE REMAINDER OF THE SENTENCE A SEPARATE PARAGRAPH (3).

JORDEN

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